IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

Crl.Rev.Pet.No. 943 of 1999()

CRA.89/1995 of I ADDL.SESSIONS COURT, ERNAKULAM
C.C. NO. 220/1992 of JUDICIAL FIRST CLASS MAGISTRATE-II, MUVATTUPUZHA

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REVN. PETITIONER:

ARJUNAN NAIR, S/O. MADHAVAN NAIR,
SREEJAVILASOM, THEKKEVEETTIL,
VARAPPETTY KARA, VARAPPETTY VILLAGE.

BY ADV. SRI.J.MATHAPPAN

RESPONDENTS:

STATE REPRESENTED BY SUB INSPECTOR OF POLICE,
KOTHAMANGALAM (CRIME NO. 20/92)
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY ADV. SRI. AMJAD ALI, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 01/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL. M.P. NO. 4352/1999 IN CRL.R.P. NO. 943/1999

DISMISSED

01.06.2007 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 943 OF 2007

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Dated this the 1st day of June 2007

O R D E R

The revision petitioner is the accused in C.C. No. 220/1992 in the file of Judicial First Class Magistrate-II, Muvattupuzha with respect to the offence under Sections 323 and 324 IPC. The appellate court acquitted the accused for the offence under Section 324 IPC. The conviction was confined to the offence under Section 323 IPC and the sentence is modified to simple imprisonment for one month.

2. The prosecution case is that on 15.01.1992 at about 8 a.m. the accused on account of previous enemity pushed down PW1 catching hold of his neck and slapped him and hit him with a stone. The evidence adduced in the matter consisted of the testimony of PWs 1 to 8 and Exts. P1 to P6. PW1, the defacto complainant has testified with respect to the incident. Nothing has been brought out in the cross examination of the above witness to suspect his version. No contradiction with his previous statement has been brought out. PW2, another occurrence witness was treated as hostile as he did not support the prosecution version. PW6 has testified with respect to the incident but was sought to be treated as hostile as he did not fully

support the prosecution version as to the hit with the granite stone. He has stated that he has seen the accused beating PW1 only. I find that the evidence of PW6, although he was treated as hostile, can relied on with respect to the incident except regarding hitting PW1 with the stone. That was why the appellate court acquitted the accused for the offence under Section 324 IPC. PW3, the doctor has proved the wound certificate i.e., Ext.P2. I find that the evidence of PW1 is amply supported by the version of PW6 as to the incident and supported by the evidence of PW3, the doctor as to the injuries sustained which is noted in Ext.P2 wound certificate. I find there is no ground at all to interfere in the findings of the courts below.

3. All the same, considering the plea of the counsel for the revision petitioner for leniency in view of the fact that the incident has taken place about 15 years ago, i.e., on 15.01.1992 and that the parties are close relatives, I find that the sentence is liable to be modified.

4. In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- to PW1 and in default to undergo simple imprisonment for six months. The revision petitioner is granted two months time

from today onwards to pay the amount of compensation. He shall appear before Judicial First Class Magistrate-II, Muvattupuzha on **08.08.2007** to receive sentence.

The Crl.R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.